

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

<p>In the Matter of</p> <p>AT&T CORP. AND</p> <p>AT&T OF THE VIRGIN ISLANDS, INC.,</p> <p>Complainants,</p> <p>v.</p> <p>VIRGIN ISLANDS TELEPHONE</p> <p>CORPORATION,</p> <p>D/B/A/ INNOVATIVE TELEPHONE,</p> <p>Defendant.</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>File No. EB-04-MD-002</p>
--	---	-------------------------------------

ORDER

Adopted: September 27, 2004

Released: September 28, 2004

By the Chief, Market Disputes Resolution Division, Enforcement Bureau:

1. On August 11, 2004, the Commission released a Memorandum Opinion and Order resolving liability issues in this proceeding.¹ Under the Commission's rules, complainant AT&T Corp. and AT&T of the Virgin Islands, Inc. ("AT&T") may initiate a separate proceeding to obtain a determination of damages by filing a supplemental complaint for damages within 60 days after a finding of liability on the merits of the original complaint.² Such a supplemental complaint for damages would be due on or before October 12, 2004.

2. On September 16, 2004, defendant Virgin Islands Telephone Corporation, d/b/a Innovative Telephone ("Innovative") filed a petition for waiver and extension of the 60-day

¹ *AT&T Corp. and AT&T of the Virgin Islands, Inc. v. Virgin Islands Telephone Corporation, d/b/a Innovative Telephone*, FCC No. 04-195, Memorandum Opinion and Order (rel. Aug. 11, 2004) ("Liability Order"). Upon the unopposed request of complainants, *AT&T Corp. and AT&T of the Virgin Islands, Inc. v. Virgin Islands Telephone Corporation, d/b/a Innovative Telephone*, File No. EB-04-MD-002, Joint Statement of Complainant and Defendants at 2 (Apr. 7, 2004), Commission staff bifurcated the damages issues from the liability issues pursuant to 47 C.F.R. § 1.722(d). See Liability Order at ¶ 11 and n.47.

² See 47 C.F.R. § 1.722(e).

filing deadline for such a supplemental complaint for damages.³ Innovative states that it plans to appeal the Liability Order, and proposes that the Enforcement Bureau (“Bureau”) instruct AT&T not to file its supplemental complaint for damages until 60 days after a decision on the merits of the appeal, which Innovative intend to file on October 12, 2004, has become final and appellate remedies have been exhausted.⁴ Innovative further requests that the Bureau waive the 60-day filing deadline in section 1.722 of the Commission’s rules, 47 C.F.R. § 1.722, and extend the deadline until 60 days after a decision on the merits by the appellate court has become final and all appellate remedies have been exhausted.⁵ Innovative argues that such action is warranted for purposes of administrative efficiency and conservation of resources.⁶

3. On September 24, 2004, AT&T filed a Response to Innovative’s Petition.⁷ In the Response AT&T stated that it does not oppose Innovative’s Petition or extending the time to file the supplemental complaint for damages.⁸ AT&T also concurs with Innovative that such an extension would likely promote administrative efficiency and conserve resources.⁹

4. We are satisfied that granting Innovative’s unopposed Petition will serve the public interest by postponing the need for further litigation and expenditure of further time and resources of the parties and of this Commission until such time as may actually be necessary.

5. Accordingly, IT IS ORDERED, pursuant to sections 4(i), 4(j), and 208 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), and 208, and sections 1.3 and 1.722 of the Commission’s rules, 47 C.F.R. §§ 1.3, 1.722, and the authority delegated in sections 0.111 and 0.311 of the Commission’s rules, 47 C.F.R. §§ 0.111, 0.311, that Innovative’s Petition for waiver and extension of time IS GRANTED.

6. IT IS FURTHER ORDERED that, unless otherwise extended by order, the deadline for AT&T to file a supplemental complaint for damages under section 1.722 of the Commission’s rules, 47 C.F.R. § 1.722, is extended until 60 days after a decision on the merits

³ *AT&T Corp. and AT&T of the Virgin Islands, Inc. v. Virgin Islands Telephone Corporation, d/b/a Innovative Telephone*, File No. EB-04-MD-002, Petition of Virgin Islands Telephone Corporation for Waiver and Extension of 60-day Filing Deadline for Supplemental Complaint for Damages (Sept. 16, 2004) (“Petition”).

⁴ *Id.* at 1-2.

⁵ *Id.* Petition at 5.

⁶ *Id.* Petition at 2.

⁷ *AT&T Corp. and AT&T of the Virgin Islands, Inc. v. Virgin Islands Telephone Corporation, d/b/a Innovative Telephone*, File No. EB-04-MD-002, Response of AT&T Corp. to Petition of Virgin Islands Telephone Corporation for Waiver and Extension of 60-day Filing Deadline for Supplemental Complaint for Damages (Sept. 24, 2004) (“Response”).

⁸ *Id.* at 2.

⁹ *Id.*

of Innovative's appeal of the above-captioned proceeding has become final and all appellate remedies have been exhausted.

FEDERAL COMMUNICATIONS COMMISSION

Alexander Starr
Chief, Market Disputes Resolution Division
Enforcement Bureau
alex.starr@fcc.gov